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# **‘Tell me the story is and do not leave out anything’. Social responsibility and ethical practices in the translation of complainants’ narratives: the potential for change**

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A civilian complainant’s first encounter with an officer at a local police station in South Africa is an example of an event in which language, translation, narrative, power, law and criminal justice are all interconnected. Statements written by officers during these sessions form the basis of any further legal action and are a critical aspect of the law. In discharging this function, officers act as both intra-lingual and inter-lingual translators. By analysing these (usually discarded) recordings of complainants’ narratives, our research enables a comparative textual analysis of the oral isiXhosa original and written English statement. Drawing on social narrative theory, this paper interrogates these translations and translation practices, noting omissions of events, actors and descriptions which result in a significant reconfiguration of the original narrative. We argue that the step of inter-lingual translation should be omitted from the statement-taking process. Raising awareness of the manipulations inherent in these practices can help develop an ethical approach to police training that promotes and enables a culture of institutional responsibility, ethical translation, and social and criminal justice, even in difficult encounters.

**Keywords:** forensic linguistics; isiXhosa; narrative; police interview; translation

This paper is based on the narrative analysis of a subset of data, collected for a research project that aims to advise the South African Police Service on its current model of record construction. The project, funded by the Canon Collins Educational and Legal Assistance Trust, is based on audio-recordings of 18 interviews (I1-I18) conducted at a local police station in the Western Cape, South Africa in early 2013. Data consist of the transcripts of these recorded interviews in isiXhosa and corresponding written statements (S1-S18) composed in English by the police officer conducting the interview.<sup>1</sup> These statements are drafted by hand during the interview, rewritten (again by hand) into a ‘clean’ copy at the end of the interview then given to the complainant to read and sign, indicating agreement with the statement and effectively bringing the interview to a close (see Ralarala 2014). If the complainant cannot read - English is implied, or simply assumed to be a condition of literacy, as demonstrated in the exchanges below - then the police officer (PO) reads the statement aloud to the complainant, sight-translating from English back into isiXhosa. This procedure is explained to the complainant (C) as seen in the following excerpt:

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<sup>1</sup> The transcripts were back-translated into English by a sworn translator and interpreter. We are grateful to Dr Z. S. Zotwana for his hard work and insightful comments. Explanations of the main symbols used are given at the end of the paper.

### Interview 7

PO: Uyakwaz' ufunda mama? [*Can you read, mother?*]

C: (.) Hay. [(.) No.]

PO: Aw' kwazi neh? (.) Ndizaw' funda le nto ndiy' bhalileyo ndibuye ndiy' **tolike** neh (0.2). Bangaba ikhona int' endiy' bhalileyo endingay' bhalanga apha oy' tshiloy' uzand' xelesa" [*You can't, neh? (.) I am going to read what I have written and then **interpret** it, neh (0.2). If there is something you said which I have not written, you should please tell me.*]

C: Iya [Yes].

PO: ...ndiyongeze [...and I'll add it].

C: Ok

PO: Ubangaba wonelisekile (.) ndizak' cel' und' say' nele [*If you are satisfied (.) I'll ask you to sign for me*]

The fact that the isiXhosa interview has been not only transcribed but also translated is barely alluded to, save for the officer's verb choice: *tolika* [to interpret] in bold. In the following example, the officer is more explicit. Nevertheless, the process of translation remains unproblematised; what is 'written' in English will simply be 'read [aloud]' in isiXhosa.

### Interview 8

PO: Ok ke (.) Nd' zak' fundela le nto but ke ngoku ndibhale nge English but nd' za nd' zay' funda ngesiXhosa so dat uy' andastende. [*OK then (.) I shall read this out for you, but now I have written it in English, but I shall read it in isiXhosa, so that you can understand it.*]

C: Ok

This apparently seamless, unremarked-upon intra- and inter-lingual translation routinely performed by these officers has led to the coining of the term *transpreter*, to highlight the communicative, linguistic and discursive competencies demanded of officers in this frontline work with the public (Ralarala 2012). The English and literacy proficiencies of these officers is, in some cases, exceedingly low, which makes them ill-equipped to meet these demands. Compounding the challenges of the interview are the similarly limited English and literacy proficiencies of the complainants, indicative of generally low literacy levels among some sectors of South African society, and characteristic of the area in which this police station is located. Many complainants also come to the interview in a poor state - injured and/or traumatised from the scene of violence, recovering from hospitalisation, or drowsy from medication or lack of sleep - further compounding communicative challenges. Together with the 'archaic' (Ralarala 2014, 379) means by which statements are constructed during the interviews and particularities of the institutional setting, these conditions have previously been characterised (Ralarala 2014) as 'challenges' concerning 1) police competencies, 2) complainants' status, 3) the process of statement construction and 4) the institutional context.

The written statement is used to determine whether the case will be investigated and taken to court, and as statutory evidence by the prosecution. At this point, the credibility of the complainant, the nature and severity of the crime, and the identification of potential witnesses are all determined. Given the value the criminal justice system invests in the statement, the interview that generates it is clearly of the utmost significance. The role of narrative in producing a written statement deemed coherent, veracious and persuasive enough to be considered worthy of that value (and hence further action) is well established in the literature (Barsky 1996; Blommaert 2001; Maryns and Blommaert 2001; Coulthard 2002; Trinch and Berk-Seligson 2002; Jacquemet 2005, 2009; Heydon 2004; Jarmołowska 2011).<sup>2</sup> We argue in this paper that, given the gravity of the interview and the conditions in which it takes place, the abilities of officers to meet the communicative demands required are severely impeded. Consequently, both complainants' access to justice and the effective functioning of the police force and justice system are severely compromised. We also acknowledge that the situation is multifarious with no quick-fix solution. Thus we argue that, among a cluster of reforms proposed in the conclusion, the step of interlingual translation (from isiXhosa to English) simply be omitted at this stage.

### **1. The police interview as a complex language event**

This paper draws on a subset of the data<sup>3</sup>: transcripts and written statements generated from 12 interviews (I4-I15) with complainants who were victims of a crime. Of 12 complainants, 7 were female (I4, I6, I7, I9, I10, I11, I12) and 5 were men (I5, I8, I13, I14, I15), aged 22-45. The crimes include Common Assault (I4, I9, I11), including Domestic Violence (I6, I7) and GBH (I10, I12, I15), and burglary and theft (I8, I14), including arson (I5) and malicious intent to property (I13).<sup>4</sup> All officers conducting the interviews were female.

The audio-recordings that comprise our data set were made for research purposes alone. Normally these interviews are not recorded; they are 'transitory - for legal purposes they do not exist beyond the interview interaction itself' (Rock 2011, 142), so not available for scrutiny or reference in the final construction of the written statement. Permission to record and transcribe the interviews means that we can both investigate the process by which the complainant's oral narrative is (co)constructed during the interview, and make a contrastive textual analysis between the oral narrative and the written statement, 'the only record' (*Ibid.*, 142) of the encounter. This has been done before (Coulthard 1996, 2002; Komter 2001, 2002; Rock 2001; Jarmołowska 2011). Jönsson and Linell, for example, similarly compared oral police interrogations with subsequent reports: 'two versions of the "same" story, one being told in the dialogue between the police officer and the suspect, and the other one produced as a monological report written by the police officer' (1991,

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<sup>2</sup> Heaton-Armstrong and Wolchover also argue that the written statements 'provide a narrative from which witnesses can refresh their memories...furnish a text against which consistency can be checked during a trial [and] provide a documentary narrative which can be read at trial in lieu of live evidence in exceptional circumstances where statute permits' (1999, 224).

<sup>3</sup> Part of this data has been subjected to some earlier analyses (see Ralarala (2014, 2016).

<sup>4</sup> The attentive reader will note that the women were all reporting cases of assault (common, domestic violence and GBH).

419). They argue, and we agree, that '[s]ince many conditions are kept constant across the two story generations, these data present a nice, naturally occurring opportunity to probe issues of orality vs. literacy' (*ibid.*, 420). We too have two 'generations'<sup>5</sup> of the same story produced in an authentic situation (rather than under experimental conditions), but our data have additional characteristics that make them particularly rich, enabling us to look beyond differences between oral and written communication into issues of translation and language rights, all of which relate to the four challenges described above.

Firstly, judging by the sample interview transcript and police report given by Jönsson and Linell (and translated into English for publication), the Swedish officer's interviewing and language skills are far greater than those of the officers in our data. A brief comparison illustrates this. Excerpt 1 comes from Jönsson and Linell, Excerpt 2 from our data.

Together, they decided to try to appropriate the stereo. The stereo was lying unmounted in the car and the two friends helped in removing the cables. After they had removed the radio and were standing outside the car, they had been attended to by a person living in a house nearby. (1991, 425)

She Came inside the house house fuming ask to pay her money I told her to leave me alone I know nothing about her money then She Slapped me On My face. I Stood up wanted to fight back but the people who were with me resolve the matter and tell me to leave her Then She run away with out realizing that She was going to my house to Vandalise all the windows. (S13)

Excerpt 2 is typical of sworn statements in our data set. All are characterised by poor use/absence of punctuation, run-on sentences, misspellings, and muddled verb tenses. The other most obvious difference is the use of the third person in the Swedish case and the consistent use of the first person in all of our written statements. This has repercussions for the concepts of narrator and focalization as discussed below.

Secondly, as with Jönsson and Linell's data, much of the literature on police interviewing focuses on the interrogation of suspects (Coulthard 2002; Heydon 2004). Interviews with complainants or victims, such as those in our data set, are rarer (Jarmołowska 2011). Our data also draw on interviews with people who may be described as vulnerable and marginalised, and suffering from illiteracy, un(der)employment, poor living conditions, intimidation and abuse. Thus, the low linguistic competencies of the police are often matched and arguably exacerbated by the low linguistic competencies and mental and physical stress of the complainants. Such a situation is also rare in the literature which commonly investigates the first encounter of vulnerable people with the machinations of well-established organisations and legal systems in which the power differentials between those who are adept at operating within the system and those who are not are clearly evident.

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<sup>5</sup> Jönsson and Linell draw on Aronsson (1991) for the concept (1991, 422).

Thirdly, the manner in which the written statement is constructed differs. In both studies, the written statement is drafted during the interview using pen and paper, but Jönsson and Linell observe that the statement was also drafted 'by [the police officer] recording sentence-by-sentence into a tape recorder', noting that '[v]ery little editing was later done, before the final report was typed' (1991, 423), including the statement that '[t]he suspect has listened to and approved of this recording on-line' (*Ibid.*, 426). In contrast, the Western Cape officers used no recording, and rewrote the statement by hand at the conclusion of the interview, as, for example, in the explanation of one officer to another below:

So int' end' yenzayo ndas' khuphela ke ngoku ne (.) nd' qale ndenz' ithuba xa nd' zaw' kwenz' istatement then ndis' khuphele apha sesiclean (.) So ndikhuphel' istatement bendis' thatha kuye ke ngoku

[So what I'm doing, I am transferring it now, neh (.) I start with a rough version when I'm going to take a statement, then I transfer it here as a clean version (.) So now I am transferring the statement I took from her.] (I12)

This comment comes towards the end of a long, oft-interrupted interview with a victim of GBH - the officer even sends the complainant out to get some fresh air '*Lo mzuzu nd' sakhuphela le rough bendiy' bhalile* [While I'm transferring the rough draft I wrote]' - and one can only imagine the exhaustion and tedium of having to start all over and write everything out again. It is unsurprising, perhaps, that the final statement is a mere 263 words; the *excerpt* that Jönsson and Linell include is 353 words. The translation that occurs at this point remains invisible and unproblematised. The officer describes what she is doing as 'transferring the statement [*ndikhuphel' istatement*] I took from her' (interlingual translation) and 'transferring' the 'rough version' [*nd' qale ndenz' ithuba xa nd' zaw' kwenz' istatement*] into a 'clean version' [*then ndis' khuphele apha sesiclean*] (intralingual translation).<sup>6</sup> Again, such cases are rare in the literature (although see Maryns 2015) which commonly describes either monolingual interrogations or mediation by an interpreter.

The fourth challenge exacerbating the demands on officers (and complainants' stress) concerns location. Again, comparison with Jönsson and Linell's study serves as a useful starting point; they describe 'a small office with only the police inspector and the suspect present' as the interview location. However, judging by background noise and frequent interruptions in the transcripts, the Western Cape interviews were held in locations that were disorganised and porous. In almost all 18 records, the transcriber notes background noise (e.g. television, music, chatting) and frequent interruptions (e.g. casual aside conversations between officers, conversations between officers regarding the case, officers interrupting the interview to address and question the complainant). Other irregularities include the presence of civilians during interviews, as in I10 when a complainant's friend frequently speaks over her, or I15, when the complainant's mother chats with the police officer about where to buy food and colludes with her to chide the young man for being 'troublesome' 'fussy and wasteful' (*Yho lona (.) utef' amoshe...Yho this one*) and ungrateful. This

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<sup>6</sup> Unfortunately, we could not access officers' written notes, so we cannot see whether they are made in isiXhosa, English or a mixture of both. That is, we cannot see at what point(s) inter-lingual translation takes place; the officers make no mention of this.

challenge includes issues of power, not only the officers' power (wielding the pen) over the complainants (who all sign without question the statements presented to them) but between the officers and their superiors, and court procedures and requirements.

Power differentials are also at play in terms of language. Jönsson and Linell were working in a monolingual environment, while our study includes two languages of unequal status. South Africa recognises 11 official languages (including isiXhosa), but English and Afrikaans still dominate the country's legal and criminal justice system (Geldenhuis 2001; Kaschula and Ralarala 2004; Ralarala 2013). This discrepancy of recognition forces onto an already complex and difficult official task the added challenge of interlingual translation. Police officers with Limited English Proficiency interview members of the public with similarly limited proficiencies, relying on pen and paper, in a setting that is hardly conducive to performing difficult and sensitive frontline interviews or drafting valuable statements. This severely hampers both complainants' access to justice and the force's ability to function effectively. That for many of the complainants in our data set this is not the first time they are reporting a crime by the accused suggests that the system is, indeed, failing them.

Although various power differentials are at play, this situation is arguably as damaging to police morale as it is to the safety of the complainants and the wider community. We want to avoid the impression that the police are incompetent or indifferent. In fact there are many instances where officers carefully explain and reiterate official proceedings, show genuine concern for complainants and shock at what has happened, and take time to question and clarify their stories. There is also, apart from a few notable exceptions (see I6), a mutually respectful environment with officers and complainants addressing each other as *sisi*, *mama*, *tata* etc. Several informal conversations occur, often at the end of the interview, about topics such as the local bus and mutual acquaintances, suggesting shared concerns and membership of a community beyond the interview space. We do not intend our analysis as criticism of these officers. Rather it identifies and describes - with a focus on selected elements - what happens to a complainant's oral narrative in isiXhosa when it is 'transferred' to a written English statement. We aim to direct the attention of officers, police training academies, lawyers and administrators to the effects of this renarration which seems hitherto to have been unremarked upon.

## **2. 'Ndixelele yinton' istori...' [Tell me the story is...]: a social narrative analysis**

We chose narrative analysis of our data for several reasons. Firstly, the audio-recordings, transcripts and written statements are all recognisably *narrative texts*, 'in which an agent or subject conveys to an addressee...a story in a particular medium' (Bal 2009, 5). There is already a strong tradition in the study of law and language to draw on theories of narrative (e.g Bennett 1978; Banes 1996; Cotterill 2002; Rideout 2008), although understandably, it does not always consistently define or apply narrative terms and concepts, due to the varying emphases of each study and the multifaceted nature of narrative theory itself. We see our work as belonging to this tradition. We draw largely from Bal (2009), because of the systematic presentation of her theory of narrative and because we find convincing her nuanced argument for a 'coherent, systematic narratology' that provides the 'intellectual tools' not just for description but for the formulation of 'an interpretive description in such a way that it is accessible to others' (*ibid.*, 3-4) and thereby 'make[s] it arguable' (*ibid.*, 11). Furthermore,

if the description of a text is understood as a proposal that can be presented to others, the fact that the description is formulated within the framework of a systematic theory carries with it one important advantage: it facilitates discussion of the proposed description. This is a 'democratic' use of a theory. (*ibid.*, 4)

We hope further discussion of our description of the data made within this narrative framework will follow; this is one of our recommendations for training, with the aim of sparking discussion of narratives and narrative construction within the South African police force. We also join Bal in insisting on the 'cultural constraints' to which all interpretations are both subject and susceptible, '[turning] narrative analysis into an activity of *cultural analysis*' (*ibid.*, 12, emphasis in original). Social narrative theorists share this understanding, along with Bal's emphasis on agency, and argue for an '*ontological* narrativity' (Somers and Gibson 1994, 38, emphasis in original), whereby 'narratives constitute rather than merely represent reality' (Harding 2012, 21; see also Baker 2006). These two strands, so to speak, of narratology and social narrative are not as disparate as perhaps once thought (Harding 2012, 43). Indeed, social narrative analysis of our data enables description and discussion not only of the texts, but of their social and institutional *production* in a language event embedded in multiple personal and collective narratives (including local, societal, theoretical and meta-narratives, see *ibid.* and Baker 2006) circulating in the local police station and the larger judicial system. Such a situated analysis considers the elaboration of narratives not just within discrete texts but 'across time and texts... as diffuse, amorphous configurations' (*ibid.*, 4). As Baker argues, social narrative theory

is simultaneously able to deal with the individual text and the broader set of narratives in which it is embedded, and it encourages us to look beyond the immediate, local narrative as elaborated in a given text or utterance to assess its contribution to elaborating wider narratives in society. (*ibid.*)

For example, a situated analysis of our data makes clear complainants' unfamiliarity with the institutional narratives of the police station elaborated in legal terms, official procedures and the processing of documents, and the efforts of officers to explain these, e.g.:

*Zange uke uve ngento eyiPeace Order? Ikhona into ekuthiwa yipeace order, ifumaneka enkundleni apho ukuba anizalani kwaye ninengxaki mhlawumbi ningabamelwane uya ecourt oyukufaka isicelo sePeace Order. Emveni koko ufumana lo maphepha uze nawo apha, amapolisa wona aye akukhapse akuse phaya uze ubeke yonke into onengxaki ngayo ngakuye.*

Have you ever heard of something called the Peace Order? There is something called the peace order; it is obtained from court, if you are not related and you have a problem; perhaps you are neighbours, you go to court to make an application for a Peace Order. After that you get those papers and you bring them here and the police will take you there and you explain everything that makes you have a problem with him. (Case 4)



The words of such official discourse are frequently sites of codeswitching; other examples in the data include *statement, common assault, protection order, case, trespass, arson, domestic violence, police station*, exemplifying both a mismatch between civilian and police understandings of crime procedures, and poor civilian knowledge of legal rights and protection.<sup>7</sup> This mismatch is also evident in complainants' expectations: requests for help, hopes of action and just retribution are commonly rebuffed by officers who may be distracted, unhelpful, limited in their power or pressed for time. In I13, for example, the officer side lines the complainant's concern over damage done to his house, preferring to pursue proper procedural charges:

C: *lifestir' ezi ntombam?* [The windows, my daughter?]

PO: *lifestire tat' azizubhataleka kalok ngoku ngoba uzaw' botshwa?* [The windows are not going to be paid for, tata, now, because she is going to be arrested.]

C: *Njani njani njani zingabhatalek' iifestire zam ndingaphangeli? Utheth' uba ke ngoku ndizaw' lal' enxuweni?* [How can that be, how can that be that my windows are not being paid for while I'm not working? Are you saying now I'm going to sleep at an abandoned house?]

PO: *Uba uvul' icase sizambamba but ifestile azizubhataleka ngob' uzob' esez' seleni eleli ez' seleni so akhomnt' uzaz' bhatala.* If you want to open a case, we are going to arrest her, but the windows will not be paid for, because she will be in the cells, locked in the cell; so there's nobody who will pay for them.]

Eventually, the complainant is directed to the 'small claims court'. He remains unconvinced and disappointed, but the officer again stresses the official narrative of correct procedures:

Mh:: *Ndicinga ngokwangokwa:: njalo ngokwangoku (0.2) Ngokwangoku (.) because kaloku ngoku i-i-i-i:: ((stuttering)) umthetho (.) uhamb' indlela yawo ngoku step by step (.) step by step.* [Mh:: I think so for now:: (0.2) For now (.) because for now, remember, th-e-e-e-e:: (stuttering) the law (.) just takes its own route now, step by step (.) step by step.]

Another clear example of wider social narratives elaborated in the language event of the interview is seen in I6, when a female complainant, assaulted by her boyfriend and then subjected to armed robbery on her escape, is questioned (in English) by an interrupting second officer:

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<sup>7</sup> We found only one instance (I7) where an officer attempts to translate one of these terms interlingually ('contravention of protection order') into isiXhosa ('*Kukwaphula umthetho*') and intralingually ('It's breaking the law'). Such codeswitching, even when isiXhosa has appropriate terms available, has significant ramifications for acceptance and use of African languages as official languages.

PO2: Yoh! (0.8) What you done to your boyfriend, ma' am?

C: (0.5) Nothing (.) maybe it's because I talk too much ((in a very soft voice))

P)2: (.) You talk too much anden?

C: (0.2) Maybe he doesn't like that (.) that I talk too much

[...]

PO2: What he like you must keep quiet?

C: Mmh

PO2: (.) So w-w-why you talking too muts?

C: (0.3) Coz it's my right to talk (.) I can't keep quiet ((Crying))

PO2: Mmh?

C: I can't keep quiet when something is wrong ((crying))

The complainant then answers questions about the boyfriend's actions ('He was beating me...and pushing me around... boxing, pushing me into a chair...'). When she states that others were also in the house, the officer is somewhat disbelieving ('So dey were doing nothing while this things happening?') and wonders why she kept 'quiet' - to which she replies '...obviously I was not quiet I was crying. They could hear that there was a fight going on inside'. The officer accuses her of not asking for help:

C: (.) They wouldn't have helped

PO2: How you know you didn't aks dem

C: I know ((annoyed and forcefully)) because they are his cousin (.) and his friend

[...]

PO2: You assuming something ma? (0.3) So you didn't want to be yelped mos

C: (0.4) ((raising voice)) They wouldn't have helped

PO2: ((forcefully)) Am askin you didn't want to be yelped

C: I wa::nted to be helped

PO2: Who did aks dere's a lot of people der you don't aks anyone to yelp you

The blatant sexism here, seeking to attribute guilt and participation to victims of gender-based violence is evident to a lesser degree in I4 where the complainant's focus is on the accused - the beginning of her narrative is *Lomfana lo unditripile* [This young man tripped me] - and the officer's focus is on the complainant: *Yima kaloku, qala ekuqaleni. Uvele wakutripa xa bekutheni, ubuphi wena kwathini yonke lonto?* [Just hold on; start from the beginning. Did he just trip you, what

had happened; where were you; what happened? All that.] and again, later: *Ufike nje wakutripa ungakhange uthethe?* [Did he just come and tripped you, without you having said something?]. There are institutional attempts to address these prejudices - the *transpreter* in I6 refers the complainant to some relevant books and DVDs - but the gap between official terms and lived experience is wide; '*Uyayaz' into e:: yedomestic violence?* [Do you know anything about domestic violence?]' the *transpreter* asks the complainant in I6, which would be comical if it was not so serious.

In a social narrative reading of these texts, the actors are not only those within the oral narratives, but also complainants themselves, *transpreters*, and any number of additional actors, including complainants' friends or relatives and other officers, whether they speak (narrate) directly or are heard only in the background. Similarly, the locations include the interview space, embedded into the space of the police station, its province and the further-reaching spaces of the institutional criminal justice system of which these are all part. A critical reading of oral and textual material in the data enables a broader critical reading of societal narratives (including the theoretical and meta-narratives that circulate in our societies) as well as of the local narratives elaborated in the oral narratives and reconfigured in the written statements.

### 3. '*... ungashiya nanye [and do not leave out anything]*': narrative construction

Our data could be investigated in many ways using a narrative approach. Bal emphasises that using intuition is important when deciding what to investigate:

[i]ntuition often brings together a striking aspect of an artefact and a relevant theoretical element. Intuitively, on the basis of a careful reading of the text, as well as a careful attention to one's reader's response, one selects those elements of the theory which one thinks particularly relevant to the text. Those will be, I presume, the features that triggered your interest in the first place. (2009, 11)

For us, the most obvious difference between transcriptions of the oral narratives and written statements is length. Typically, an interview transcript consists of over a hundred (and sometimes almost five hundred) 'turns' between participants, but is reduced to a written statement of a few hundred words. Clearly, much of the original oral narrative is missing and what is included in the statement is selected (Bal's term) or 'selectively appropriated' (Baker's, drawn from Somers and Gibson 1994; White 1980 and others). Such selection is an inevitable part of narrative (re)construction, but the differences between what the complainant selects in the construction of their (personal) oral narrative (from lived, personal experience, Riessman 1993; 2008) and between what the *transpreter* selects in constructing the written statement (constructed, in turn, from the co-construction during the interview of the oral narrative) can be understood if we consider the purposes of the two generations of the narrative, which both coincide and conflict. They coincide in the dual aim to identify a perpetrator and convince the audience that this individual committed a crime of sufficient gravity to be tried and convicted by the justice system. Where the purposes perhaps conflict can be understood when we consider the switch in narrators, 'the most central concept in the analysis of narrative texts' (Bal 2009, 18), of the two versions. The narrator of the oral narrative is the complainant, who, in telling their story (*ibid.*, 9) seeks to be heard, believed and assisted in some way. For complainants, the perpetrator's identity and guilt are clear, but they frequently also seek redress or assistance, such as repairing damaged property, the return of money,

safety or respite from violence. The narrator of the written statement, however, despite use of the first person and the attempt to adopt the complainant's voice, is the officer, whose purpose is to convince her superiors of the complaint's veracity, the infringement of law, the likelihood of arrest and, ultimately, conviction. The officer is also, of course, trying to save time and effort for herself, and others later if the case goes to court. Because the *transpreters* must translate into English what was said in isiXhosa while (hand)writing, this further layer of effort (understandably) leads to shortcuts and deselection of some elements (see Harding 2012 on the concept of translation as a 'narrow gate').

Differences between the two generations of narrative text are most evident in the omission of that which is considered to be irrelevant, and can be understood in terms of *story*, defined by Bal as 'the contents of that text [that] produces a particular manifestation, inflection, and "colouring"' of the *fabula*, 'a series of logically and chronologically related events that are caused or experienced by actors' (2009, 5). Thus the officer/*transpreter* tries to extract the *fabula* ('what happened') from the story (how it happened according to the complainant). The irony and challenge for the officer is that although these can be distinguished instrumentally and provisionally, as Bal says, for analytical purposes (2009, 7) - 'The *fabula* is really the result of the mental activity of reading [*in this case, listening*], the interpretation by the reader [*police officer*], an interpretation influenced both by the initial encounter with the text [*oral narrative co-constructed in the police interview*] and by the manipulations of the story [*as told by the complainant*]' (*ibid.*, 10). The two cannot, in fact, be separated like this. There is no 'core narrative' of 'what happened'. Nevertheless, the attempt to construct just such a narrative is made. After all, 'what happened' is precisely what detectives and the court demand of the written statement.

Thus is the story reduced. While paralinguistic, extra-linguistic and situational factors could be said to have been deselected from the written statement (gestures, sounds, tone of voice, laughter and other expressions of emotion, interruptions, pauses, silences, background noise, greetings, pleasantries, etc.), a narrative analysis enables us to focus on the narrative elements - events, actors, time and location (*ibid.*, 8) - that have been selected or omitted. Of these, events ('the transition from one state to another state'), actions and actors ('agents that perform actions' where '[t]o act is...to cause or experience an event' (*ibid.*, 6, emphasis in original) were all noticeably subject to omission, with significant effect on the written statement. Other narrative aspects ('traits which are specific to a given story' (*ibid.*, 9)) such as description, characterization and weighting<sup>8</sup> are also routinely deselected, skewing the voice of the narrator - more specifically, the focaliser, 'the agent that sees' (*ibid.*, 149) - by subsuming it into the written statement, removing the complainant's right 'not only to speak but also to be heard in one's own language' (Ralarala 2014, 378) and arguably weakening the narrative's veracity, coherence and plausibility as it is presented in the written statement - all vital in legal evaluation of the narrative.<sup>9</sup> Even with the legal authority conferred by institutional trappings (forms to be completed, procedures to be followed, certain

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<sup>8</sup> Weighting, usually through repetitions and anachronies, that is, '[d]ifferences between the arrangement in the story and the chronology of the *fabula*' (Bal 2009, 82), indicate the significance attributed to an element by the narrator (see also Baker 2006, 28 and Harding 2012, 47).

<sup>9</sup> The skewing of the narrator's voice is most apparent in the jarring additions of formulaic sentences at the beginning (usually establishing time and location) and end of written statements (e.g. 'No one has the right to assault me I request further police investigation for this matter.' (S4); or 'This is all I can declare so far, I did not give him permission to keep on stealing my property and I want him to be arrested for contrive of protection Order and I would require police officials for further investigation.'(S7))

pieces of information and rhetoric to be included), there is nevertheless a distinct lack of authority in the final product, which, because it is written in the first (not third) person, reflects on the assumed narrator (the complainant) rather than on the actual narrator (the *transpreter*).<sup>10</sup>

Examples of events and actions regularly deselected from the oral narratives include those that are a part of a criminal assault: 'kicking' (*wabendikhaba*) is omitted from S6; the hitting of the complainant's daughter with an iron rod is omitted from S9; 'hitting' (*betha*), 'stamping' (*xangxatha*), 'throttling' (*krwitsha*), 'pouring beer' (*galela ngotywala*) on the victim and 'knocking her unconscious' (*Nd' ye nda unconscious*) are all omitted from S12; while hitting on the face (*watsh' aph' eb' sweni*), upper body (*entla aph'*), shoulder and ear (*aph' emagxeni su nalaph' endlebeni*) are all omitted from S15. Elements of the victims' responses, often repeated and thereby weighted by the complainant, are also omitted, such as 'screaming' (*bend' khala*) (I6) or feeling 'scared' (*ndisoyika*) (I12; I15), or a victim's non-violent response, such as efforts to escape ('I walked away' (*Ndihambe*) (I4)). Effects of the attack on the victim (bleeding, bandaged and treated in hospital (I12); unable to sign the statement (I15)) are also omitted. Omitting such events and actions makes assaults appear less aggressive and victims passive and docile.

In many cases, actors - neighbours, family members, friends - in the oral narratives are omitted. The most obvious consequence of this is that potential witnesses are lost from the record, yet there is only one instance (I13) when an officer refers to an actor (the complainant's 'next door neighbour') as a potential witness. Tellingly, not only does the complainant seem doubtful about this (*Andima::zi kaloku abantu bayayoyik' ikhothi* [I don't know; people are scared of the court]), but this specific person (with whom the police had already spoken - an action omitted from the statement) becomes the generic plural 'neighbours' in the written statement. In addition to the legal repercussions, omitting actors also creates a strangely depopulated space, in which violence is perpetrated in isolation, seemingly without observation, and devoid of social or physical context.

This illusion of disembodiment is also, arguably, created by the frequent omissions of description which we found in the translation from oral to written text. Far from being extraneous to the narrative, description is 'indispensable, indeed, omni-present in narrative' (Bal 2009, 35), 'a privileged site of focalization, and as such it has great impact on the ideological and aesthetic effect of the text' (*ibid.*, 35). Yet, in their search for the elusive core narrative (the fabula), officers regularly and consistently omit what is seen as superfluous and unnecessary, including descriptive details of attacks and weapons. Thus, for example, in Statement 10, the 'carving knife' (*ibhozo*), a 'big knife used for dicing cabbage' (*Libhoz' elikhulu man lonqunq' ikhaphetshu*), a 'big, thin carving knife', (*ngalamabhoso makhulu acikekileyo*) 'a big carving knife with a black handle', (*ibhoz' elikhulu, lamabhoso makhulu ade anephin' elimnyama*), 'not the kind of knife that can fit in a pocket' (*ayomel' enongen' epokothweni*) (I10) becomes simply a 'black knife' (S10). In Statement 9, 'fast flowing blood' (*sek' phum' igazi ke ngoku seligixizaza kakhulu*) becomes 'bleeding', 'screaming' (*ndikhal'*) becomes 'calling for help', 'threats to kill' (*and' bulale*) become 'swearing' and the repeated qualifier 'with an iron rod' (*ngentsimbi*) (I9) becomes merely 'hitting' (S9); in fact, during the writing of the statement, the charge in S9 is downgraded from GBH to Common Assault.

Similarly, without description, the characters populating oral narratives are reduced to actors (see Bal 2009, 112). Such description frequently uses strong emotive language, and also includes actions performed by the accused. For example, in I4, the complainant's claims that the accused 'followed' (*uyandilandela*) her into the yard then the house, and that after assaulting her, in

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<sup>10</sup> On conflation of authorship, see Ralarala (2014, 388).

an apparent act of threat and intimidation, he ‘stood outside the yard for a long time, but not saying anything’ (*wayokuma ngapha kweyadi...ufike wema isidala, kodwa wabe engathethi emile*) are omitted, as are the complainant’s direct quoting of the accused and his seemingly mindless motives - three times she quotes him saying he was ‘doing it for shit’ (*ndenza ikaka*). Retroversions, that is, references to events that took place before the oral narrative of the crime itself,<sup>11</sup> are another means by which actors are characterised in oral narratives, but often reduced or omitted in written statements. Complainants’ references to prolonged violence either directly (‘I have been subjected to beatings for too long’), through use of the subjunctive to describe repeated actions, or through reported speech (‘that old lady’s daughter came and said, “Go and lay a charge against [him]...even at home he gives us trouble.”’) become ‘it is not the first time he assaulted me’. In I10, the complainant reports that she has already applied for a protection order, that she has often reported him, that he ‘recently assaulted also my sister; he will appear [in court]’, none of which is included in the written statement. It is true that the law is very particular about what is admissible in terms of judging each case on its own merits; but along with these characterizations of persistent aggressors (together with the corresponding aspects that make *place*, ‘a category of fabula elements’ (Bal 2009, 134) into *space* (Bal 2009, 133ff), an aspect of story), these omissions obscure the predicament of women living in poverty and subjected to repeated violence, threats and intimidation, and, by implication, the failure of the law and society to relieve them from it.

The effects of such omissions, we argue, are that written statements are peculiarly disembodied, de-located, and devoid of characters, and function as sanitised versions of the original oral narratives. Indeed, it could be argued that these sanitised versions produced for use in a sanitised court removed from the spaces of both the original crime and the subsequent interview are a further translation, a transformation not only of disorder, deprivation and chaos into order, but also a translation of multi-lingualism (and multiculturalism) into the monolingualism and monoculture of the courtroom and the criminal justice system.

#### 4. Intra- and Inter- Translation

What of translation? In all of this analysis, it seems we have not taken it into account. To return to Bal’s intuitive triggers for investigation, the fact that the oral narratives are co-constructed in isiXhosa and the statements written in English was a key feature of the data that motivated our inquiry. In fact, as translation studies scholars, it was our first feature of interest, in which we expected to find the richest line of interrogation, and yet, contrary to our expectations, we found that the greatest effects on the re-narrations of the complainants lie in the intra-lingual translation from oral to written modes, not from isiXhosa to English.<sup>12</sup>

We would even go so far as to argue that, in our data, there is not a single case when interlingual translation creates a significant reconfiguration of the narrative. Vocabulary, for example, used in the written statements to describe physical attacks (e.g. tripped, kicked, smacked, hit and dragged (S4)) can all be found in some form in the oral narratives (e.g. *unditripile*, *andikhabe*, *qhwaba*, *wandibetha*, *wandirhuqa*) and their translation into English is, we dare say, relatively unproblematic. In I9, for example, the complainant frequently uses the words which are translated in the written statement as ‘hit’ (*betha*); the problem being rather that *ngentsimbi* [*the iron rod*]

<sup>11</sup> This of course raises the question of when does a narrative begin and end and how our narratives, including ‘micro-narratives’ connected to and embedded within each other.

<sup>12</sup> In fact, it is this intra-lingual translation that is most commonly the interest of legal and institutional discourse and social-linguistic scholars (see, for example, Heffer, Rock, and Conley 2013).

*with which she was hit* is completely omitted from the statement, along with the hitting of the complainant's daughter with the same rod! This is not a matter of translation. While *ngentsimbi* may be a polysemous word, referring to a 'tool', 'bell', 'weapon', 'iron' etc., there are several appropriate equivalents in English that could be used, with any confusion as to the exact nature of the iron weapon being clarified through additional questioning on the part of the *transpreter*. Unless of course, the *transpreter* did not know any of these and, stumped, pressed for time, simply leaves it out.

If this were the case, then this would be a prime example of the burden of inter-lingual translation on the *transpreter*, another required layer of (unproblematised) competency adding to the challenges of the language event. Such an example does not account for other crucial omissions - the actors that populate the oral narratives - *utata* [father], *mama* [mother], *abazali* [parents], *abamelwane* [neighbours], *abahlali* [residents], *umakhulu* [old lady] etc. - are not omitted because the *transpreter* cannot find English equivalents. We nevertheless argue that the task of translating the oral narrative into a coherent, convincing written statement is task enough. The labour of simultaneous inter-lingual translation for an officer already struggling with low-level literacy and English proficiency serves only to increase the difficulty of the task. It benefits nobody but the English-speaking court and so, at this stage, should be eliminated.

## **5. Conclusions and recommendations for ethical practices**

We began this paper with reference to four challenges (Ralarala 2014), namely, police competencies, complainants' status, the process of statement construction and the institutional context. These challenges exacerbate the complex, important event that is the initial police interview of an aggrieved complainant seeking justice. Narrative analysis of the textual material available to us found that simultaneous intra- and inter-lingual translation of such interviews, that is, the renarration of the original isiXhosa oral narrative into a written English statement, is significantly shorter than the original. This results in the omission or de-selection of para-linguistic, extra-linguistic and situational factors and of key narrative elements and story aspects, including events, actions, actors, description, characterisation and weighting. These omissions skew the focalisation of the written statement so that potential witnesses and the degree and nature of the violence reported, including accurate descriptions of weapons and previous offences, are all lost from the record. The low literacy levels of both police and complainants, exacerbated by outdated procedures and chaotic interview locations, contribute to a statement that lacks the narrative coherence and veracity required for positive evaluation by the courts. The fact that several complainants were returning to the police station because of previously unsuccessful charges, Protection Orders and ongoing violence supports this supposition. The simultaneous interlingual translation added to this intralingual translation does not, somewhat surprisingly, add any textual or lexical discrepancies to the translation, but, as an additional layer of linguistic competence demanded of the *transpreters*, can only contribute to the reduction and brevity of the written statement so that key narrative elements and nuances of story aspect are lost.

In light of these findings, we make here several recommendations. These could and should, of course, be both confirmed and refined by further investigations into interview practices in other parts of South Africa and other African languages. To confirm or discredit our finding that interlingual translation modifies less of the oral narrative than intra-lingual translation, studies into South African police interviews conducted in English would be also welcome.

Firstly, we recommend that inter-lingual translation be completely omitted at this stage of statement taking. The written statement produced for the complainant to sign at the end of the

interview should, we recommend, be in the language in which the interview was conducted. This statement could then later be translated (by a qualified translator rather than a police officer) and certified for the courts' purpose with both the original and translation presented together. In recognition of the status of isiXhosa as an official language, and as a step towards large-scale reforms required to bring policy in line with practice, we also recommend that isiXhosa statements are invested with legal power over English translations, or carry equal legal weight, as in many bi- or multi-lingual countries and institutions.

Even without this task of inter-lingual translation, the challenge of police linguistic competence remains. Various recommendations could be included here, such as on-going training and professional development in literacy and English for policing purposes, including vocabulary enrichment, writing and note-taking, as well as related training in interviewing techniques, ethical protocols, and organisation and information-management skills. We also recommend training in narrative theory, even if it might sound 'high-brow' compared with the urgent need for basic skills. Such training, conducted in non-threatening lay language, could increase police understanding of the importance of key elements in configuring a narrative (oral and written versions) and how complainants use description, repetition, anachronisms, characterisation, focalisation etc to tell their story. Training in basic tenets of social narrative theory, the way narratives constitute rather than represent reality and directly affect individual behaviour and institutional practice could contribute to the dispelling of strongly-held beliefs about the existence of a 'core narrative' that can be neutrally extracted from the story. Far from being 'academic', 'theoretical' or irrelevant, we see the notion of narrative - its universality, power, construction and reconfiguration - and a theoretical framework that enables description and invites discussion as core to more ethical self-reflective practice of frontline police interviews.

Secondly, given complainants' often minimal knowledge of legal procedures, seen in the transcripts, we recommend public education campaigns (in all official languages) on legal rights and responsibilities, and navigating police and legal procedures, such as the Protection Order mentioned regularly here.

Thirdly, several very simple actions could reform and facilitate statement-taking. The most obvious is to record interviews (a recommendation made previously, see Ralarala 2014 and especially Heaton-Armstrong and Wolchover 1999) and keep them on file. Inexpensive digital technology makes this straightforward; it could then lead to collecting (and storing for future reference) the original oral narratives. Other possibilities include using laptops and electronic forms to facilitate statement writing from notes taken during interviews. Ideally, two officers would be present, one to interview and take notes and the other to draft a statement during the interview, which could then be revised in light of the notes (as opposed to a new 'clean copy' being written at the end of the interview) for the complainant to sign.

Finally, care is needed regarding interview location. Interruptions must be minimised, and privacy and confidentiality ensured. Separate yet transparent interview rooms should be used, with noise kept to a minimum and a duty of care to the complainants, many of whom are injured and scared. From the transcripts, it is evident that, at the end of the interview, the onus falls on the complainants to apply to the small claims court, or secure a Protection Order etc., tasks that many are likely to find difficult, particularly after the trauma of the crime and the ordeal of the interview. An officer who can accompany them, assist with completion of the required forms and collection of information would significantly improve access to justice.



We readily acknowledge that these recommendations require time and resources, which may not be immediately or readily available. Furthermore, our study involved a single police station and only one of the country's nine official African languages: the time and resources required for real lasting change can thus seem overwhelming. Yet, taken in steps, considered in parts, concrete actions could easily be taken that would mark a shift in attitudes and entrenched practices towards the justice and access for all that South Africa has, in its constitution, as its goal. Indeed, the South African Criminal Justice System should consider formulating a code of conduct in relation to record construction and police interviewing, with well-defined principles based on empirical studies such as this one that take into account the current social context. Such a code of conduct could be fundamental in reinforcing institutional commitment to ethical practices of justice, access and equality, and in developing a higher level of professionalism, and thus promoting public confidence in the police.

### Transcription Symbols

Symbol	Description
::	The sound is lengthened by one syllable for each colon
(.)	Micro-pause of less than 0.2 seconds
...	Omitted talk
(1.35)	Silence measured in seconds
(( ))	<i>Transcriber's</i> remarks, including comments made on voice quality or non-verbal sounds
()	Incomprehensible utterance, no transcription attempted.

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